

IN THE
Supreme Court of the United States

OCTOBER TERM, 1939.

No. _____

SPLINT COAL CORPORATION, - - - - - *Petitioner,*

v.

MRS. WALTER ANDERSON, ADMINISTRATRIX
OF THE ESTATE OF WALTER ANDERSON,
DECEASED, - - - - - *Respondent.*

**PETITION FOR WRIT OF CERTIORARI TO THE
UNITED STATES CIRCUIT COURT OF APPEALS
FOR THE SIXTH CIRCUIT.**

*To the Honorable Chief Justice and Associate Justices
of the United States Supreme Court:*

The petitioner, Splint Coal Corporation, comes now and complaining of and about a decision of the United States Circuit Court of Appeals for the Sixth Circuit herein, delivered, February 14, 1940 (Tr. 80), rehearing denied March 13, 1940 (Tr. 87), seeks a writ of certiorari to review said decision and shows:

I.

That Walter Anderson, deceased, was employed by petitioner as a coal loader in its mines at Splint, Kentucky, and on August 17, 1936, while engaged in removing coal and debris from said mine, and from the very place therein where the injury occurred, was struck by a stone known in mining parlance as a "Kettle back" or "Horse back" which fell from the roof, and was injured.

II.

That afterward Anderson, who was then living, on December 14, 1937, had a verdict and judgment against petitioner for \$6,500.00 in the District Court of the United States for the Eastern District of Kentucky, on account of said injury.

III.

That on appeal to the United States Circuit Court of Appeals for the Sixth Circuit, that Court on February 14, 1940, affirmed said judgment and on March 13, 1940, overruled petitioner's petition for rehearing.

IV.

That in so doing said Court held that petitioner was under a legal duty to furnish Anderson a safe place to work, ignoring and refusing to apply the settled law of Kentucky which is to the effect that

where a servant is engaged in work at the time of an injury that creates the condition that causes the injury the master is under no duty to furnish a safe place.

Wherefore, the premises considered, petitioner, Splint Coal Corporation, prays a writ of certiorari herein directed to the United States Circuit Court of Appeals for the Sixth Circuit to review the decision of said Court herein to the end that the errors therein may be corrected.

CLEON K. CALVERT,
Attorney for Petitioner.

RAY O. SHEEHAN,
Of Counsel.